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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

STATE OF CALIFORNIA, *et al.*,
Plaintiffs,
v.
ALEX M. AZAR, II, Secretary of
Health and Human Services, *et al.*,
Defendants,
and,
THE LITTLE SISTERS OF THE POOR,
JEANNE JUGAN RESIDENCE, *et al.*,
Defendant-Intervenors
Case No.: 4:17-cv-5783-HSG
DEFENDANTS' MOTION TO STAY
ALL PROCEEDINGS DUE TO LAPSE
IN APPROPRIATIONS OR IN THE
ALTERNATIVE FOR EXTENSION OF
ANSWER DEADLINE

1 The United States of America hereby moves for a stay of proceedings in the above-captioned case
2 or in the alternative for an extension of the deadline to respond to the second amended complaint.
3

4 1. At the end of the day on December 21, 2018, the appropriations act that had been funding the
5 Department of Justice expired and appropriations to the Department lapsed. The Department does
6 not know when funding will be restored by Congress.

7 2. Absent an appropriation, Department of Justice attorneys are prohibited from working, even
8 on a voluntary basis, except in very limited circumstances, including “emergencies involving the
9 safety of human life or the protection of property.” 31 U.S.C. § 1342.

10 3. Undersigned counsel for the Department of Justice therefore requests a stay of proceedings
11 until Congress has restored appropriations to the Department.

12 4. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as
13 Congress has appropriated funds for the Department. The Government requests that, at that point,
14 all current deadlines for the parties be extended commensurate with the duration of the lapse in
15 appropriations.

16 5. Opposing counsel state that they oppose the motion to stay the case. Counsel for intervenors
17 did not have an opportunity to provide their position on the stay in the short time afforded for
18 Government counsel to prepare and file the motion in light of the lapse of appropriations.

19 6. In the alternative, the Government seeks an extension of the deadline to answer or otherwise
20 respond to the second amended complaint, from January 2, 2019 until February 28, 2019.

21 7. An extension is appropriate to enable the Government to account for the Court’s resolution
22 of the pending preliminary injunction motion, and to account for the undersigned’s other work
23 obligations, which at this point include a trial in early February as well as three significant briefs due
24 in the first half of February.

25 8. Counsel for plaintiffs does not oppose the requested extension of the answer deadline.
26 Counsel for the intervening defendants consent to the request.

27 Therefore, although we greatly regret any disruption caused to the Court and the other
28 litigants, the Government hereby moves for a stay of proceedings in this case until Department of

1 Justice attorneys are permitted to resume their usual civil litigation functions. In the alternative, the
2 Government seeks an extension of the deadline to answer or otherwise respond to the second
3 amended complaint, from January 2, 2019 until February 28, 2019.
4

5 Dated: December 26, 2018

Respectfully submitted,

6 JOSEPH H. HUNT
7 Assistant Attorney General

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United States Attorney

9 MICHELLE R. BENNETT
10 Assistant Branch Director

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